

LAURA VARTAIN (SBN: 258485)
laura.vartain@kirkland.com

KIRKLAND & ELLIS LLP
555 California Street, 30th Floor
San Francisco, CA 94104
Telephone: (415) 439-1625

ALLISON M. BROWN (*Pro Hac Vice* admitted)
allison.brown@kirkland.com

JESSICA DAVIDSON (*Pro Hac Vice* admitted)
jessica.davidson@kirkland.com
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4723

Attorneys for Defendants
UBER TECHNOLOGIES, INC., RASIER, LLC, and
RASIER-CA, LLC

[Additional Counsel Listed on Following Pages]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION,

Case No. 3:23-md-03084-CRB

**DECLARATION OF PETER
SAUERWEIN IN SUPPORT OF
DEFENDANTS UBER
TECHNOLOGIES, INC., RASIER,
LLC, AND RASIER-CA, LLC'S
MOTION TO TRANSFER**

This Document Relates to:

A.R. v. Uber Technologies, Inc., et al., No. 24-
cv-01827

D.J. v. Uber Technologies, Inc., et al., No.
3:24-cv-07228

A.G. v. Uber Technologies, Inc., et al., No.
3:24-cv-01915

A.R. 2 v. Uber Technologies, Inc., et al., No.
3:24-cv-07821

B.L. v. Uber Technologies, Inc., et al., No. 24-
cv-7940

C.L. v. Uber Technologies, Inc., et al., No.
3:23-cv-04972

Judge: Hon. Charles R. Breyer
Courtroom: Courtroom 6 – 17th Floor

1 *J.E. v. Uber Technologies, Inc., et al.*, No.
2 3:24-cv-03335

3 *Jane Doe QLF 0001 v. Uber Technologies,*
4 *Inc., et al.*, No. 3:24-cv-08387-CRB

5 *Jaylynn Dean v. Uber Technologies, Inc., et al.*,
6 No. 3:23-cv-06708

7 *K.E. v. Uber Technologies, Inc., et al.*, No.
8 3:24-cv-05281-CRB

9 *Amanda Lazio v. Uber Technologies, Inc.*, No.
10 3:24-cv-08937-CRB

11 *LCHB128 v. Uber Technologies, Inc., et al.*,
12 No. 3:24-cv-7019

13 *T.L. v. Uber Technologies, Inc., et al.*, No. 23-
14 cv-9217

15 *WHB 318 v. Uber Technologies, Inc.*, No. 3:24-
16 cv-04889

17 *WHB 407 v. Uber Technologies, Inc., et al.*,
18 No. 3:24-cv-05028

19 *WHB 823 v. Uber Technologies, Inc.*, No. 3:24-
20 cv-4900

21 *WHB 1486 v. Uber Technologies, Inc., et al.*,
22 No. 3:24-cv-04803

23 *WHB 1876 v. Uber Technologies, Inc., et al.*,
24 No. 3:24-cv-05230

25 *WHB 1898 v. Uber Technologies, Inc., et al.*,
26 No. 3:24-cv-05027

27 *Jane Roe CL 68 v. Uber Technologies Inc., et*
28 *al.*, No. 3:24-cv-06669-CRB

1 SABRINA H. STRONG (SBN: 200292)
sstrong@omm.com

2 JONATHAN SCHNELLER (SBN: 291288)
jschneller@omm.com

3 **O'MELVENY & MYERS LLP**
400 South Hope Street, 19th Floor
4 Los Angeles, CA 90071
Telephone: (213) 430-6000
5 Facsimile: (213) 430-6407

6 PATRICK L. OOT, JR. (*Pro Hac Vice* admitted)
oot@shb.com

7 **SHOOK, HARDY & BACON, LLP**
1800 K Street NW, 10th Floor
8 Washington, DC 20006
Telephone: (202) 783-8400
9 Facsimile: (202) 783-4211

10 ALYCIA A. DEGEN (SBN: 211350)
adegen@shb.com

11 MICHAEL B. SHORTNACY (SBN: 277035)
mshortnacy@shb.com
12 2121 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
13 Telephone: (424) 285-8330
Facsimile: (424) 204-9093

14 CHRISTOPHER V. COTTON (*Pro Hac Vice* admitted)
ccotton@shb.com
15 255 Grand Boulevard
16 Kansas City, MO 64108
Telephone: (816) 474-6550
17 Facsimile: (816) 421-5547

DECLARATION OF PETER SAUERWEIN

I, Peter Sauerwein, hereby declare pursuant to 28 U.S.C. § 1746:

1. I am over the age of 18 and a resident of Seattle, Washington. I submit this declaration in support of the Defendants Uber Technologies, Inc., Rasier LLC, and Rasier-CA LLC's (collectively "Uber") Motion to Transfer (the "Motion"). I have personal knowledge of each fact stated in this declaration and, if called as a witness, I could and would competently and truthfully testify thereto. I am authorized to make these statements on behalf of Uber.

2. I am currently employed at Uber as the Senior Manager for Corporate Business Operations. Prior to my current role, I was employed by Uber from November 2016 through January 2021. I was first employed as an Operations and Logistics Manager in Denver, Colorado, from November 2016 through August 2018, and a Senior Operations and Logistics Manager in Denver, Colorado, from August 2018 through January 2019. In January 2019, I moved to San Francisco and became Head of Regulatory Strategy and Operations for the U.S. West region. Then, starting in November 2020, I was employed as Territory Lead for UberEats, and I remained in that role until I left the company in January 2021. I returned to Uber in April 2022 as the Senior Manager for Corporate Business Operations.

3. As a result of my position with Uber, I have access to Uber's business records regarding users' accounts. In the ordinary course of its business, Uber maintains records regarding when and how users register for an account, when users indicate consent to Terms of Use, and the Terms of Use in effect and as amended from time to time. As a result of my position with Uber, I also have access to these records and am personally familiar with them.

4. In the regular course of its business, Uber maintains electronic records showing when and how users register for an account, when and how users confirm their agreement to the Terms of Use (either when first registering for an account or when agreeing to updated versions of the Terms of Use), and the Terms of Use themselves. This information is stored in a secure and permission-based manner and cannot be accessed by unauthorized users. Authorized Uber personnel with the permissions to access and read this information, such as myself, may access

1 agreement to the Terms of Use and the updated versions of the Terms of Use.

2 **UBER'S TERMS OF USE AND FORUM-SELECTION CLAUSE**

3 5. In the regular course of its business, Uber stores electronic copies of each version
4 of the Terms of Use and updated Terms of Use, including information documenting when each
5 version was in effect. Uber identifies each version of the Terms of Use by the date on which that
6 version became effective. As Senior Manager for Corporate Business Operations, I am
7 personally familiar with and have access to those records.

8 6. When a user registers for an Uber account, the user must agree to the Terms of Use
9 then in effect before the user is able to utilize the Uber App.¹

10 7. Uber periodically updates the Terms of Use and, as of January 18, 2021, as a
11 condition of their continued use of the Uber App, users are required to agree to these updated
12 versions.

13 8. Beginning on January 18, 2021, the Terms of Use contained a "Forum-Selection
14 Clause," which stated:

15 Notwithstanding the foregoing, any dispute, claim, or controversy arising out of
16 or relating to incidents or accidents resulting in personal injury (including but not
17 limited to sexual assault or harassment claims) that you allege occurred in
18 connection with your use of the Services, whether before or after the date you
19 agreed to these Terms, shall be brought exclusively in the state or federal courts in
20 the state in which the incident or accident occurred, notwithstanding that other
21 courts may have jurisdiction over the parties and subject matter, and except as
22 may be otherwise provided in the [Arbitration Agreement or supplemental terms
23 applicable to your region], to the extent permitted by law.

24 9. Attached as **Exhibit A** is a true and correct copy of the Terms of Use dated
25 January 18, 2021, in the form in which they would have been presented to Plaintiffs through
26 the process described above. The Forum-Selection Clause appears on pages 13-14.

27 10. Attached as **Exhibit B** is a true and correct copy of the Terms of Use dated and
28 effective as of April 14, 2021.

11. Attached as **Exhibit C** is a true and correct copy of the Terms of Use dated and

¹ Uber's Terms of Use have at times also been referred to as "Terms of Service" or "Terms & Conditions." For ease of reference, only the term "Terms of Use" is used herein.

1 effective as of July 12, 2021.

2 12. The Forum-Selection Clause has not materially changed since January 18, 2021.

3 13. 19 of the 20 Bellwether Plaintiffs signed up for an Uber account prior to January
4 18, 2021 and continued to have an Uber account after January 18, 2021. In my position as Senior
5 Manager for Corporate Business Operations, I am personally familiar with and have access to
6 electronic records showing these Bellwether Plaintiffs' agreement to the Terms of Use and the
7 updated versions of the Terms of Use.

8 14. According to Uber's electronic business records of those 19 Plaintiffs' accounts,
9 each electronically executed and assented to Uber's Terms of Use. Attached as **Exhibit D** is a
10 chart reflecting a list of the Bellwether Plaintiffs, as well as the most recent date on which the
11 Plaintiff assented to the Terms of Use (based on Exhibits E-Q, below).

12 15. As reflected in Exhibit D, for the 13 Bellwether Plaintiffs for whom transfer is
13 sought, the most recent version of the Terms of Use to which they assented is a version dated on
14 or after January 18, 2021—the date on which the Terms of Use started including the forum-
15 selection clause.

16 16. Attached as **Exhibit E** is a true and correct copy of a printout of Plaintiff WHBE
17 1486's "Checkbox Consent History" report. This document was produced to Plaintiffs under
18 Bates Number UBER-MDL3084-BW-00000338.

19 17. Attached as **Exhibit F** is a true and correct copy of a printout of Plaintiff WHBE
20 1876's "Checkbox Consent History" report. This document was produced to Plaintiffs under
21 Bates Number UBER-MDL3084-BW-00000674.

22 18. Attached as **Exhibit G** is a true and correct copy of a printout of Plaintiff
23 LCHB128's "Checkbox Consent History" report. This document was produced to Plaintiffs under
24 Bates Number UBER-MDL3084-BW-00000807.

25 19. Attached as **Exhibit H** is a true and correct copy of a printout of Plaintiff Jaylynn
26 Dean's "Checkbox Consent History" report. This document was produced to Plaintiffs under
27 Bates Number UBER-MDL3084-BW-00000041.

20. Attached as **Exhibit I** is a true and correct copy of a printout of Plaintiff C.L.’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000068.

21. Attached as **Exhibit J** is a true and correct copy of a printout of Plaintiff A.G.’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000202.

22. Attached as **Exhibit K** is a true and correct copy of a printout of Plaintiff WHB 1898’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000673.

23. Attached as **Exhibit L** is a true and correct copy of a printout of Plaintiff A.R.’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000141.

24. Attached as **Exhibit M** is a true and correct copy of a printout of Plaintiff T.L.’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00001408.

25. Attached as **Exhibit N** is a true and correct copy of a printout of Plaintiff WHB 407’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000510.

26. Attached as **Exhibit O** is a true and correct copy of a printout of Plaintiff WHB 318’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000399.

27. Attached as **Exhibit P** is a true and correct copy of a printout of Plaintiff WHB 832’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000473.

28. Attached as **Exhibit Q** is a true and correct copy of a printout of Plaintiff J.E.’s “Checkbox Consent History” report. This document was produced to Plaintiffs under Bates Number UBER-MDL3084-BW-00000274.

1 29. The Checkbox Consent History reports were generated as follows:

2 30. When Uber updates its Terms of Use, all users are presented in the Uber App with
3 a blocking pop-up screen that has a heading stating “We’ve updated our terms.” The pop-up
4 screen also states, in large type, “We encourage you to read our Updated Terms in full.” Under
5 that message, the phrases “Terms of Use” and “Privacy Notice” appear underlined and in bright
6 blue text, setting the text apart from other text on the screen and indicating that each is a
7 hyperlink. When a user clicks on the “Terms of Use” or “Privacy Notice” hyperlinks, the user is
8 brought to the page of Uber’s website displaying the current version of that document. The pop-
9 up screen precludes the use of the Uber App unless or until a user clicks the checkbox on the
10 screen and clicks the large “Confirm” button at the bottom of the screen. The pop-up screen
11 expressly states “By checking the box, I have reviewed and agree to the Terms of Use and
12 acknowledge the Privacy Notice.” It also states “I am at least 18 years of age.”

13 31. Based upon my personal knowledge arising from my position and job duties at
14 Uber, the in-app blocking pop-up screen precluded the use of the Uber app unless and until a user
15 clicked the checkbox on the screen and clicked the large “Confirm” button at the bottom of the
16 screen. Attached hereto as **Exhibit R** is a true and correct copy of a representation of the in-app
17 blocking pop-up screen that each of these Plaintiffs would have experienced each time they were
18 presented with an updated version of the Terms of Use.

19 32. Based upon my personal knowledge arising from my position and job duties at
20 Uber, when a user is presented with the in-app blocking pop-up screen (described in paragraph 30
21 of this declaration) and clicks the checkbox, then clicks the “Confirm” button, a record of this
22 consent is simultaneously and electronically captured, recorded, maintained, safeguarded, and
23 stored in a database in the regular course of Uber’s business at the time of the events being
24 recorded. This record is linked to the user’s unique identifier associated with the user’s account,
25 which is located through the email address and/or mobile telephone number used to access the
26 Uber platform.

27 33. Each Plaintiff’s Checkbox Consent History report (Exhibits E-Q) was generated
28

1 by entering their unique identifying numbers and/or Phone Number or Email Address in Uber's
2 database. I am personally familiar with the contents of the Checkbox Consent History reports
3 attached as Exhibits E-Q.

4 34. The information contained in the Checkbox Consent History reports was created
5 during the regular course of business at Uber, at or around the time that each Plaintiff recorded
6 her consent to Uber's Terms of Use. At the time period covered by the Checkbox Consent
7 History reports, it was Uber's regular business practice to record the type of information
8 contained in the Checkbox Consent History reports as each user records her consent. This
9 continues to be Uber's regular business practice.

10 35. The information contained in the Checkbox Consent History reports was and
11 continues to be relied upon by Uber in the conduct of its business.

12 I declare under the penalty of perjury under the laws of the United States that the
13 foregoing is true and correct.

14 Executed at Seattle, Washington, on May 16, 2025.

15
16 *Peter Sauerwein*

17 _____
18 PETER SAUERWEIN
19
20
21
22
23
24
25
26
27
28